from exercising my normal discretion under the Legal Profession Act (Cap 132), nor the Attorney General from opposing the admission of Mr Jacks if he wishes to do so. It must be noted that the Attorney General was not a party to the matter before the Privy Council, nor was his opinion sought before the undertaking of the first defendant was given.

In my view, it must be very rare for there to be an admission under s 7(1)(c), for the purposes of a particular case, of a person who is not qualified under s 3 of the Act. I am not persuaded that this is such a case, or that the applicant has special qualifications and experience which should persuade me to admit him ad hoc for the purposes of Civil Suit No 187 of 1981.

I am, therefore, obliged to dismiss this application which has been made on behalf of Mr Jacks for the ad hoc admission for the purposes of Civil Suit No 187 of 1981.

Application dismissed.

Solicitors: *Choo Chan & Wong.*

Reported by *Ng Sheau Jiuan*

MALAYSIAN REPORTS

Persatuan Pegawai-Pegawai Bank Semenanjung Malaysia v Minister of Labour, Malaysia & Ors

SUPREME COURT (KUALA LUMPUR) – SUPREME COURT CIVIL APPEAL NO 240 OF 1987
WAN SULEIMAN, MOHAMED AZMI AND WAN HAMZAH SCJJ
13 MAY AND 25 NOVEMBER 1988

Labour Law – Trade union – Registration of trade union – Failure to take into consideration interest of workmen in particular trade, occupation or industry – Trade Unions Act 1959, s 12

Administrative Law – Certiorari – Registration of trade union – Trade union registered by Registrar – Failure to take into consideration interest of workmen in particular trade, occupation or industry – Appeal to Minister dismissed – Application for certiorari – Trade Unions Act 1959, s 12

The appellant is a trade union of executive officers of commercial banks in Peninsular Malaysia established in 1978. In 1980 the appellant received recognition of 17 commercial banks in Peninsular Malaysia, including the fourth respondent, Malayan Banking Bhd ('the bank'). On 8 October 1986, the second respondent, the Registrar of Trade Unions, registered the third respondent, the Association of Maybank Officers ('the association') as a trade union of executive officers in the employment of Malayan Banking Bhd. Subsequently the bank gave recognition to the association (the third respondent) and withdrew its recognition to the appellant. The appellant appealed to the Minister but the appeal was dismissed. The appellant then applied for an order of certiorari to quash the decision of the Minister in dismissing the appeal, but this was refused. The appellant appealed to the Supreme Court. The Registrar of Trade Unions had stated that he registered the association (third respondent) because he was satisfied that it is in the interest of the officers in the fourth respondent bank to register the third respondent as a trade union.

Held (Mohamed Azmi and Wan Hamzah SCJJ), allowing the appeal:

(1) The registration of the association as a trade union was a nullity as the Registrar had failed to take into consideration the interest of the workmen in the particular occupation which he was required to under s 12(2) of the Trade Unions Act 1959 and he had no power to register the association without considering their interest.

(2) The decision of the Minister on appeal in confirming the registration was a nullity because it cannot be said that all matters required by the law to be taken into consideration had in fact been taken into consideration by him.

Legislation referred to
Trade Unions Act 1959 s 12

Appeal from: Originating Motion No A32-108-1986 (High Court, Kuala Lumpur)

B Lobo for the appellant.
PM Mahalingam (Senior Federal Counsel) for the first and second respondents.
Guru S Johal for the third respondent.
V Chandran for the fourth respondent.

Cur Adv Vult

Wan Hamzah SCJ (delivering the judgment of Mohamed Azmi SCJ and himself): The appellant, Persatuan Pegawai-Pegawai Bank Semenanjung Malaysia ('the persatuan'), is a trade union of executive officers of commercial banks in Peninsular Malaysia, established in 1978. In 1980 the Persatuan received recognition of 17 commercial banks in Peninsular Malaysia including the fourth respondent, Malayan Banking Bhd ('the bank'). On 8 October 1986 the second respondent, the Registrar of Trade Unions ('the Registrar'), registered the third respondent, the Association of Maybank Officers ('the association'), as a trade union of the executive officers in the employment of the bank. On 29 October 1986 the bank gave recognition to the association, and on the same date the bank withdrew its recognition of the persatuan.

The persatuan being aggrieved by the decision of the Registrar to register the association as a trade union appealed to the first respondent, the Minister of Labour ('the Minister'). The Minister dismissed the persatuan's appeal. The persatuan obtained leave of the High Court to apply for an order of certiorari to remove into the High Court for the purpose of its being quashed the decision of the Minister to dismiss the appeal, but the persatuan failed in the application. Now the persatuan appeals to the Supreme Court against Harun J's refusal to grant an order of certiorari.

One of the grounds of appeal is that the Registrar and the Minister had failed to take into account certain provisions of the Trade Unions Act 1959 and that Harun J had erred in holding that the Registrar and the Minister had considered all the relevant provisions of the law. Among the provisions of the Trade Unions Act invoked by the appellant are the provisions of s 12, which read as follows:

> 12(1) The Registrar may, upon receiving any application under section 10, and subject to this section, register the trade union in the prescribed manner.
>
> (2) The Registrar may refuse to register a trade union if he is satisfied that there is in existence a trade union in respect of the particular trade, occupation or industry and it is not in the interest of the workmen in that particular trade, occupation or industry that there be another trade union in respect thereof.
>
> (3) The Registrar shall refuse to register a trade union if
>
> (a) he is of the opinion that the trade union is likely to be used for unlawful purposes or for purposes contrary to or inconsistent with its objects and rules;
>
> (b) any of the objects of the trade union is unlawful;
> (c) he is not satisfied that the trade union has complied with this Act and of the regulations;
> (d) he is satisfied that the objects, rules, and constitution of the trade union conflict with any of the provisions of this Act or of any regulations; or
> (e) the name under which the trade union is to be registered is –
>
> (i) identical to that of any other existing trade union, or so nearly resembles the name of such other trade union as, in the opinion of the Registrar, is likely to deceive the public or the members of either trade union; or
>
> (ii) in the opinion of the Registrar, undesirable,
>
> unless the trade union alters its name to one acceptable to the Registrar.

It appears that the Registrar purported to take into consideration sub-s (2) of s 12 when he registered the association. In his affidavit the Registrar stated, inter alia, as follows:

> Having considered the relevant facts and law pertaining to this case in respect of the third respondent's application, I was satisfied that it is in the interest of the officers in the fourth respondent bank to register the third respondent as a trade union in the manner prescribed by the Trade Unions Act 1959.

The Registrar did not state that he had also taken into consideration the interest of other workmen in similar occupation as the officers in the bank. It should be noted that sub-s (2) requires that the interest of the workmen in the particular occupation should be considered, not just the interest of the officers in the employment of the bank. Therefore it is clear that the Registrar had failed to correctly take into account the provisions of sub-s (2). In our judgment the registration of the association as a trade union was a nullity because the Registrar had failed to take into consideration the interest of the workmen in the particular occupation, which he was required by the law to take into consideration, and he had no power to register the association as a trade union without considering their interest. Similarly the decision of the Minister on appeal to confirm the registration was a nullity because it cannot be said that all matters required by the law to be taken into consideration had in fact been taken into consideration by him.

We allow the appeal with costs here and in the High Court and we order that the decision of the Minister and the registration of the association as a trade union be quashed.

Appeal allowed.

Solicitors: *Lobo & Associates*; *Nashir Johal & Co*; *Xavier & Chandran*.

Reported by *Prof Ahmad Ibrahim*